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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,070	03/11/2004	Timmy Chen	MR2549-35/CIP	4362

4586 7590 03/10/2005

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EXAMINER

OKEZIE, ESTHER O

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/797,070

Applicant(s)

CHEN, TIMMY

Examiner

Esther O. Okezie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Bennison.
2. Regarding claim 1 Bennison discloses a vacuum suction tool comprising: a handle (2) having a neck portion extending from an underside thereof (14) and the neck portion having an opening (10), a passage defined through an underside of the neck portion and communicating with the opening (23), a suction disk (12) having a shaft (15) extending from a top surface thereof and the shaft movably engaged with the passage (figs 2-4), a spring mounted to the shaft (21) and biased between the top surface of the suction disk and said underside of the neck portion; an operation lever (7) having a cam end pivotably received in the opening and the shaft pivotably connected to the cam end of the operation lever, a hole defined in a side of the operation lever (20), and a release device movably engaged with the neck portion and the operation lever (1), spring biased (21) between the release device and the inside of the recess.

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3. Regarding claim 6 Bennison discloses the device of claim 1 wherein a skirt portion connected to the neck portion and contacts the top surface of the suction disk (17).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3,4, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennison in view of Miller.

5. Regarding claim 3 Bennison discloses the device of claim 1 with a pivotable movable lower lever (7) designed in the form of a loop of tubular steel on which both sides are pivotally connected by two pins (20) fitting through grooves (19) of the inner shaft (15;figs 6 and 7). Bennison does not disclose a lever including two walls and a groove defined in an inside of each of the two walls of the cam end. Miller discloses a vacuum pick-up tool including an operation lever (11) designed with a cam end having two walls separated by a groove (figs 2 and 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to design the lever of Bennison according to the teaching of Miller to build a more stable lever than a steel ring in order to provide greater stability when lifting heavier objects.

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6. Regarding claim 4 Bennison discloses two grooves (19) for pivotable connecting the lever (7) but these grooves do not communicate with an open top of the lever of claim 3. Miller discloses the lever of claim 3 having an open top and two round grooves connected by a pivot pin. It would have been obvious to one of ordinary skill in the art at the time of the invention to design the lever of Bennison with an open top and two walls with upper grooves as taught by Miller in order to provide a more stable gripping area for the lever.

7. Regarding claim 7 Bennison discloses the device of claim 6, but does not disclose a lever with a flat underside to match with a top surface of a skirt portion of the suction disk. Miller discloses a lever with a flat underside (11). It would have been obvious to one of ordinary skill in the art to modify the design the lever of Bennison by the teachings of Miller in order to provide a more stable lever mechanism than a steel ring for lifting heavy objects.

8. Claims 2,5, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennison in view of Busby. Bennison discloses the device wherein an opening (10) is defined through a wall of the neck portion (14) of the handle (2), but Bennison does not disclose the device wherein a recess is defined in a wall of the neck portion of the handle and an aperture is defined through an inside of the recess, the aperture communicating with the opening, the release device pivotably engaged with the recess and an insertion extending from the release device and extending through the aperture, the insertion removably engaged with the hole of the operation lever. Busby discloses a

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vacuum pick-up tool wherein a recess (100) is defined in the neck (12) of the handle (13) and an aperture (32) is defined through an inside of the recess, the aperture communicating with the opening (18), the release device (90) pivotably engaged with the recess (100) and an insertion extending from the recess (28) and extending through the aperture, the insertion device removably engaged with the hole (26) of the operation lever (38; see figures 1-4). It would have been obvious to one of ordinary skill in the art to utilize the teachings of Busby to modify the device of Bennison to provide a separate release device for releasing air through a separate hole in order to release an object from being lifted by the actuation of the suction lever.

9. Regarding claim 5 Busby discloses the release device of claim 2 wherein the insertion has a rounded tip (upper portion of 28, below the lever 22).

10. Regarding claim 8 Bennison does not disclose the release device of claim 2. Busby discloses a hole (100) is defined through a wall of the neck portion (12) of the handle (13) and communicates with the opening (18), a release device (38) movably received in the hole in the handle and the hole defined in the side of the operation lever (22), a spring (26) biased between the release device and the inside of the lever (see figures 1-4).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (703) 305-0433. The examiner can normally be reached on Mon-Fri 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine A Matecki can be reached on (703) 308-2688. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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